

Contemporary Issues on Matrimonial Property

Edited by:
Zuhairah Ariff Abd Ghadas
Norliah Ibrahim

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CONTEMPORARY ISSUES ON MATRIMONIAL PROPERTY

Edited by:

**ZUHAIRAH ARIFF ABD GHADAS
NORLIAH IBRAHIM**

**Ahmad Ibrahim Kulliyah Of Laws (AIKOL)
International Islamic University Malaysia**



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CHAPTER 9

LAW OF TRUST AND THE BENEFICIAL INTEREST IN MATRIMONIAL PROPERTY

Zuraidah Ali and Zuhairah Ariff Abd Ghadas

9.0 INTRODUCTION

Trust is a very unique creation. It is said to be one of the best creation of English jurists as it covers both the legal right and equitable rights. Although Malaysia does not have a specific statute on trust, that is not an obstacle for the law to develop with a wider coverage. There are many definitions of trust and despite the fact that Malaysia has no single statute governing the law of trust, the law developed and to some extent the principle of English law of trust are fully adopted. The development has led to the recognition of new circumstances that may give rise to the creation of trust. There are so many terms that have been created in order to give recognition to trust in relation to matrimonial property or sometimes this is known as beneficial interest in the family home.

Although married couples have had their legislated rights as to how their interest in the matrimonial home or house are determined upon separation or divorce that does not means trust mechanisms should only be confined to those without legislated rights. There are situation where the court is more than willing to decide distribution of property